

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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ANDRE SMITH LOVEJOY,

Plaintiff,

v.

STATE OF NEVADA, et al.,

Defendants.

Case No. 3:19-CV-0427-MMD-CLB

**REPORT AND RECOMMENDATION  
OF U.S. MAGISTRATE JUDGE**

This Report and Recommendation is made to the Honorable Miranda M. Du, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR IB 1-4. Before the court is plaintiff's failure to comply with Local Rule ("LR") IA 3-1 requiring plaintiff to change his address.

On July 25, 2019, plaintiff filed an application to proceed *in forma pauperis* (ECF No. 1). On the same date the clerk mailed the court's advisory letter to the plaintiff (ECF No. 2). The advisory letter was returned to the court by the U.S. Postal Service as undeliverable on August 6, 2019 (ECF No. 3).

Thereafter, the court issued an order requiring plaintiff to update his address by October 18, 2019 (ECF No. 4). Plaintiff was cautioned that his failure to do so would result in a dismissal of this action. *Id.* To date, plaintiff has not filed a notice of change of address with the court. In fact, plaintiff has not filed a document with the court since July 2019 (ECF No. 1).

LR IA 3-1 provides that the failure to "immediately file with the Court written notification of any change of address . . . may result in dismissal of the action . . . ." Prior to dismissal for failure to follow local rules, the court must consider "(1) the public's interest

1 in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the  
2 risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on  
3 their merits; and (5) the availability of less drastic sanctions." *Carey v. King*, 856 F.2d  
4 1439, 1440 (9th Cir. 1988) (quoting *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir.  
5 1986)). This litigation cannot proceed or be decided on the merits if the court and  
6 defendants cannot contact plaintiff, nor should the court or defendants be required to  
7 continue to try to resolve the case without the plaintiff's participation. All five factors  
8 clearly favor dismissal of this case.

9 Based on the foregoing and for good cause appearing, the court recommends that  
10 this case dismissed based upon plaintiff's failure to notify the court of his change of  
11 address pursuant to LR IA 3-1.

12 The parties are advised:

13 1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of  
14 Practice, the parties may file specific written objections to this Report and  
15 Recommendation within fourteen days of receipt. These objections should be entitled  
16 "Objections to Magistrate Judge's Report and Recommendation" and should be  
17 accompanied by points and authorities for consideration by the District Court.

18 2. This Report and Recommendation is not an appealable order and any notice  
19 of appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District  
20 Court's judgment.

### 21 RECOMMENDATION

22 IT IS THEREFORE RECOMMENDED that this action be **DISMISSED** for plaintiff's  
23 failure to comply with LR IA 3-1.

24 DATED: March 12, 2020.

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27 UNITED STATES MAGISTRATE JUDGE  
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